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8 Attorneys for Complainant

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10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2008-288

13 DAVID WAYNE DORMAN  
1285 Larkspur Lane  
14 Beaumont, CA 92223-2901

**DEFAULT DECISION**  
**AND ORDER**

15 Registered Nursing License No. 567592

[Gov. Code, §11520]

16 Respondent.  
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18 FINDINGS OF FACT

19 1. On or about April 20, 2008, Complainant Ruth Ann Terry, M.P.H., R.N.,  
20 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs, filed Accusation No. 2008-288 against David Wayne Dorman  
22 (Respondent) before the Board of Registered Nursing.

23 2. On or about June 20, 2000, the Board of Registered Nursing (Board)  
24 issued Registered Nursing License No. 567592 to Respondent. The Registered Nursing License  
25 expired on September 30, 2007, and has not been renewed.

26 3. On or about April 28, 2008, Sandra Sotelo, an employee of the Department of  
27 Justice, served by Certified and First Class Mail a copy of the Accusation No. 2008-288,  
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
2 was and is: 1285 Larkspur Lane, Beaumont, CA 92223-2901. A copy of the Accusation is  
3 attached as Exhibit A, and is incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the  
5 provisions of Government Code section 11505, subdivision (c).

6 5. Business and Professions Code section 118 states, in pertinent part:

7 (b) The suspension, expiration, or forfeiture by operation of law of a  
8 license issued by a board in the department, or its suspension, forfeiture, or  
9 cancellation by order of the board or by order of a court of law, or its surrender  
10 without the written consent of the board, shall not, during any period in which it  
11 may be renewed, restored, reissued, or reinstated, deprive the board of its  
authority to institute or continue a disciplinary proceeding against the licensee  
upon any ground provided by law or to enter an order suspending or revoking the  
license or otherwise taking disciplinary action against the license on any such  
ground.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the  
14 respondent files a notice of defense, and the notice shall be deemed a specific  
15 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
of defense shall constitute a waiver of respondent's right to a hearing, but the  
agency in its discretion may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service  
17 upon him of the Accusation, and therefore waived his right to a hearing on the merits of  
18 Accusation No. 2008-288.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at  
21 the hearing, the agency may take action based upon the respondent's express  
22 admissions or upon other evidence and affidavits may be used as evidence without  
any notice to respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board  
24 finds Respondent is in default. The Board will take action without further hearing and, based on  
25 the evidence on file herein, finds that the allegations in Accusation No. 2008-288 are true.

26 10. The total cost for investigation and enforcement in connection with the  
27 Accusation are \$711.00 as of May 28, 2008.

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DETERMINATION OF ISSUES

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2           1.     Based on the foregoing findings of fact, Respondent David Wayne  
3 Dorman has subjected his Registered Nursing License No. 567592 to discipline.

4           2.     A copy of the Accusation is attached.

5           3.     The agency has jurisdiction to adjudicate this case by default.

6           4.     The Board of Registered Nursing is authorized to revoke Respondent's  
7 Registered Nursing License based upon the following violations alleged in the Accusation:

8                 a.     Violation of Business and Professions Code section 2762,  
9 subdivisions (a) and/or (b) in that he obtained and/or used dangerous drugs to an extent or  
10 in a manner dangerous or injurious to himself or the public or to the extent that such use  
11 impairs his ability to conduct with safety to the public the practice authorized by his  
12 license; and

13                 b.     Violation of Business and Professions Code section 2761,  
14 subdivision (a) for unprofessional conduct for being terminated unsuccessfully from the  
15 Board's Diversion Program for his failure to comply with the terms and conditions of his  
16 enrollment in the Program and found to be a public risk.

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ORDER

IT IS SO ORDERED that Registered Nursing License No. 567592 issued to Respondent David Wayne Dorman is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on OCTOBER 5, 2008.

It is so ORDERED September 5, 2008

*LaTranene W Tate*

FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Accusation No. 2008-288

Exhibit A  
Accusation No. 2008-288

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
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10 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2008-298*

13 DAVID DORMAN  
1285 Larkspur Lane  
14 Beaumont, CA 92223-2901

**A C C U S A T I O N**

15 Registered Nursing License No. 567592

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,  
22 Department of Consumer Affairs.

23 2. On or about June 20, 2000, the Board of Registered Nursing issued  
24 Registered Nursing License Number 567592 to David Dorman (Respondent). The license  
25 expired on September 30, 2007.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code provides in pertinent part:  
“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct. . . .”

6. Section 2762 of the Code provides in pertinent part:  
“In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

“(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

“(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license. . . .”

1           7.       Section 2764 of the Code provides, in pertinent part, that the expiration of  
2 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding  
3 against the licensee or to render a decision imposing discipline on the license.

4           8.       Section 2811(b) of the Code provides, in pertinent part, that the Board may  
5 renew an expired license at any time within eight years after the expiration.

6           9.       Section 125.3 of the Code provides, in pertinent part, that the Board may  
7 request the administrative law judge to direct a licensee found to have committed a violation or  
8 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
9 and enforcement of the case.

#### 10                   CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

11           At all times mentioned herein, the following drugs listed by trade name, by given  
12 name, or by chemical composition were and are classified as controlled substances under the  
13 California Health and Safety Code and/or Federal Law, and/or as a dangerous drug pursuant to  
14 Business and Professions Code section 4022.

15           10.     Hydrocodone bitartate/acetaminophen, also known by the brand name  
16 Vicodin is a narcotic Schedule III controlled substance as designated by Health and Safety Code  
17 section 11056(c)(4), and is a dangerous drug pursuant to Business and Professions Code section  
18 4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

19           11.     Percocet, a brand name for acetaminophen/hydrocodone, is Schedule II  
20 controlled substance as designated by Health and Safety Code section 11055(b)(1)(J), and is a  
21 dangerous drug pursuant to Business & Professions Code section 4022. Percocet is a  
22 combination of a narcotic and an analgesic/antipyretic used to treat moderate to moderately  
23 severe pain.

#### 24                   FIRST CAUSE FOR DISCIPLINE

25                   (Drug Diversion and Use)

26           12.     Respondent is subject to disciplinary action under section 2762,  
27 subdivisions (a) and/or (b) in that he obtained and/or used dangerous drugs to an extent or in a  
28 manner dangerous or injurious to himself or the public or to the extent that such use impairs his



1 or her ability to conduct with safety to the public the practice authorized by his or her license.

2 The circumstances are as follows:

3 a. On or about April 27, 2007, Respondent voluntarily chose to participate in  
4 the State of California, Board of Registered Nursing Diversion Program (the Program) as  
5 administered by MAXIMUS. Respondent voluntarily agreed to adhere to the rules and  
6 regulations of the Program.

7 b. Respondent reported that his "abuse of prescription narcotics" brought him  
8 into the Program.

9 c. On or about May 10, 2007, a psychologist evaluated Respondent for the  
10 Program. During this evaluation, Respondent freely admitted to drug dependency, drug  
11 addiction, and "wrong doing at work."

12 d. On or about June 18, 2007, Respondent admitted to his Program clinical  
13 case manager that he was having degenerative arthritis pain, and was prescribed Vicodin which  
14 soon "got out of control." Respondent also admitted that he would have panic attacks related to  
15 the patients, and that he would play up his pain to get more prescriptions for Vicodin and  
16 Percocet.

17 SECOND CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct - Terminated Unsuccessfully from Diversion)

19 13. Respondent is subject to disciplinary action under section 2761,  
20 subdivision (a) for unprofessional conduct for being terminated unsuccessfully from the Board's  
21 Diversion Program. The allegations set forth in paragraph 12 above are incorporated herein by  
22 this reference. The circumstances are as follows:

23 a. On or about September 14, 2007, Respondent was terminated  
24 unsuccessfully from the Program for his failure to comply with the terms and conditions of his  
25 enrollment in the Program and found to be a public risk.

26 b. Respondent: (1) failed to appear at his scheduled DEC meeting on  
27 September 14, 2007; (2) failed to attend the Nursing Support Group after his second relapse; (3)

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missed several calls to CVI; (4) missed three drug/alcohol tests; and (5) did not respond to  
MAXIMUS attempts to contact him.

PRAYER

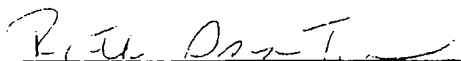
WHEREFORE, Complainant requests that a hearing be held on the matters herein  
alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nursing License Number 567592  
issued to David Dorman.

2. Ordering David Dorman to pay the Board of Registered Nursing the  
reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: 4/20/06

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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